

DEPARTMENT OF THE NAVY
INVESTIGATIVE NOTES

1. CASE TITLE

UNLAWFUL DISCHARGE OF A FIREARM

2. CASE CONTROL NUMBER (CCN)

103241100-D5536 / ICR 1219

3. MADE BY

(b) (6)

3. MADE AT

BLDG 1373, NAVSTANPT, RI

3. DATE

04-OCT-2010

3. TIME

23:00

On 04-OCT-2010 at approximately 17:46 I monitored a radio broadcast from NAVSTA Newport Police (b) (6) requesting back-up assistance on Dupont Street. She stated something to the effect that she had one individual in handcuffs who had gun and she was also holding another person.

I telephoned the Police Dispatcher and told him to dispatch the two closest units to assist and stated that I would also be responding. Moments later NAVSTA Newport Police (b) (6) and I arrived at Melville Navy Housing simultaneously. However, (b) (6) was not on Dupont Street. She was actually located at the end of Craven St., a cul de sac at the north-east corner of the complex.

As (b) (6) and I arrived on scene I saw (b) (6) standing behind a white male in handcuffs, who was later identified as; (b) (6) (NWC/War Gaming). They were standing along side the rear of a gold colored pickup truck, bearing (b) (6) tactically bladed facing (b) (6)'s police cruiser. Standing with his legs spread apart and leaned over with his hands on the hood of (b) (6)'s police cruiser was another white male, who was later identified as; (b) (6) (OTCN/Fire Fighting School).

I immediately ordered (b) (6) to handcuff and search (b) (6) and had both suspects isolated and secured in different police cruisers. After verifying that (b) (6) was unharmed, I asked her what happened. She briefly stated something to the effect that she pulled on the guy (b) (6) holding a rifle, pointing it towards housing and it looked like he was trying to cock it. As soon as he saw her (b) (6) tossed the rifle onto the front seat of his pickup truck. As she was handcuffing (b) (6) (b) (6) approached the both of them on foot. He was walking south from the pathway leading to the Melville Elementary School. Not knowing what was going on, she detained both subjects and immediately radioed for back-up. While awaiting the arrival of additional officers (b) (6) determined that both males were active duty, enlisted Navy personnel.

Before taking any further action, I asked if both parties had been read their Article 31(b) Rights and told (b) (6) to make sure they were both advised before we started any questioning. She had already issued (b) (6) his rights, so (b) (6) was given his as well.

Upon closer inspection of the rifle in question, it was an older looking black colored/blued steel lever action rifle with a dark brown wooden stock and a scope

Encl # 12

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mounted on it. It was later determined to be a Marlin Model 57, .22 Cal Levermatic®, but there was no serial number visible on the weapon. Subsequent research revealed that the Marlin Firearms Company produced the Levermatic® during the 1950's and 1960's, but pre-1968 models were not required to have serial numbers. The action on this particular rifle was partially open and there was a damaged .22 Cal live round facing up and jammed at the chamber.

Preliminary on-scene investigation revealed that (b) (6) had fired at least four (4) rounds from his rifle. He was reportedly trying to sight the scope on his rifle, so he set up a wooden box with a homemade paper target on it in the grassy area west of Craven Street. His firing position was south of his approximately 94 yards south of his target, so he was firing in a northerly direction. It should be noted that beyond the wooded area behind the homemade target is the Melville Elementary School, Melville Campground and the Rainbow Heights housing units. (b) (6) admitted to accompanying (b) (7)(C) (b) (7) to the scene, but denied any participation in the shooting. While (b) (6) was shooting his rifle, (b) (6) was reportedly walking the path towards the Melville Elementary School, just to see what where the pathway lead.

A search of the path and wooded area surrounding it yielded negative results for any evidence, weapons or contraband. However the following items were discovered during a search of the grassy area where the shooting took place: The homemade target, with four (4) bullet holes; a cloth rifle sleeve/case; a Stanley mini-tool kit; the keys to (b) (6) (b) (6) pickup truck; and a clear plastic box of CCI .22 Cal. Bullets. However, no spent shell casings ejected from the rifle could be located in the high grass as weather and lighting conditions decreased.

I directed that (b) (6) retrieve the patrol camera from the Sergeant's Office and respond to our location. Upon his arrival I took a total of fifteen (15) photographs, which were forwarded to (b) (6). I also took several measurements at the scene and created a map to illustrate the key positions and distances related to this incident. The map was also provided to (b) (6) for her report.

After photographs and measurements were taken all evidence was collected by (b) (6) (b) (6). In order to render the Marlin Levermatic® rifle safe (b) (6) and I had to remove the scope to access the chamber. I used a Leatherman tool to remove the bullet from it's casing, then (b) (6) emptied the powder out of the round and I was able to safely extract the casing from the rifle to render it clear and safe.

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23:00

I advised (b) (6) to proceed with the inventory and towing of the pickup truck and to transport both suspects to police headquarters for further investigation and processing.

At 18:07 I telephoned the NAVSTA Newport Police Acting OPSDIV Officer, (b) (6) and briefed him from the scene. Prior to departing the scene at 18:56 I also telephoned the NAVSTA Newport Command Duty Officer (CDO), (b) (6) and advised him as well. As a precaution, the Police Dispatcher was also directed to notify the Portsmouth, RI Police Department, in the event that they received any subsequent complaints of gunshot damage in the surrounding area of their Town.

Based on the initial review of the incident it was determined that at a minimum, the following charges should be applied to (b) (6)

- 1) § 934.ART 134 (C)(4) Clause 3 (c)(ii) - (Ref. RIGL § 11-47-50 - Firing Without Landowner's Permission – Firing in Compact Area, as assimilated by Title 18 USC § 13).
- 2) § 934.ART 134 (C)(4) Clause 3 (c)(ii) - (Ref. RIGL § 11-47-51 - Loaded Weapons in Vehicles, as assimilated by Title 18 USC § 13).

Since the incident occurred on property “not part of school grounds” and it cannot be positively established that (b) (6) fired his rifle with “reckless disregard for the safety of another...at a place that the person knows is a school zone”, the elements contained in Title 18 USC § 922 do not seem to apply. However, the incident occurred within a Navy Housing area covered by Exclusive Federal Jurisdiction, so (b) (6) may also be deemed to be in violation of § 892.ART 92 (a) for violating the registration and transportation provisions for firearms contained in NAVSTANPTINST 5530.7A (Privately Owned Weapons on NAVSTA Newport).

For complete details with regard to this case refer to (b) (6) CLEOC Incident Report and all related enclosures. ///END///

(b) (6) (b) (7)(C)

ENC # _____

Oct 5, 2010 7:22:52 PM

Printed By: 3967 from: NETC00

Received Time:

Oct 5, 2010 19:21:13

Source ORI:

OHBMV0000

Summary:

RQ: (b) (7)(C), (b) (6)

[View Message Details](#)

RR RIUSN01S0.

(b) (7)(C) LIY/2011.LIT (b) (7)(C) EXPIRES/20111221.

(b) (7)(C), (b) (6)

Encl #
14



DATE:
TIME:
CCN / ICR:
OFFENSE(S):

04 October 2010 (Monday)

17:46

103241100-D5536 / 103241100-1219

1) UCMJ § 934.ART 134 (C)(4) Clause 3 (c)(ii) - (Ref. RIGL § 11-47-50) Unlawful Discharge of a Firearm;
2) UCMJ § 934.ART 134 (C)(4) Clause 3 (c)(ii) - (Ref. RIGL § 11-47-51) Loaded Weapon in Vehicle.

PHOTOGRAPHER:
ARRESTING OFFICER(S):

(b) (6)

(b) (7)(C), (b) (6)

(Naval War College, War Gaming Dept.)

LKA (b) (6)

SS#

(b) (7)(C)

DOB

Height

Weight

Hair

Eyes

Build

Complexion

(b) (6)

80

(b) (6)

(b) (7)(C)

80

72

(b) (6)

(b) (7)(C)

ENCLOSURE #

Encl #15

EVIDENCE/PROPERTY CUSTODY RECEIPT

D5536 -ICR 1219

2. RECEIVING ACTIVITY

NAVSTA Newport Police

3. LOCATION

Bldg 1373 Navsta Newport, RI

4. NAME, GRADE AND TITLE OF PERSON FROM WHOM RECEIVED

(b) (6)

(b) (7)(C)

☒ OWNER
☐ OTHER

7. LOCATION OF PROPERTY WHEN OBTAINED

Grassy field Approx 220ft West of Craven St. Portsmouth, RI

8. PURPOSE FOR WHICH OBTAINED

☒ EVIDENCE☐ FOUND☐ IMPOUNDED☐ OTHER

9. TIME/DATE OBTAINED

1746 04 Oct 2010

10. LOG NUMBER

27-10

11. ITEM 12. QUANTITY 13. DISPOSAL ACTION

14. DESCRIPTION OF ARTICLE—MODEL NUMBER, SER. NO., IDENTIFYING MARKS, CONDITION, AND VALUE WHEN APPROPRIATE.

A	1		CCI 22 Cal LR HP and CCI 22 Cal brass (damaged/insert) case.
B	1		Sportsman Guide Rifle sock case (yellow/grey)
C	1		Set of six (6) yellow Stanley Screw Drivers in plastic case
D	1		Six (6) foot piece of (yellow) fishing twine
E	1		Fifteen (15) inch by Fifteen (15) inch by Ten (10) inch cardboard box with four (4) 22 caliber bullet holes in it.
F	1		Black Sony MP120 booking Room Tape
LAST ITEM			

15. NAME AND SIGNATURE OF WITNESS (If available)

(b) (6)

(b) (7)(C)

17. CHAIN OF CUSTODY

ITEM	DATE & TIME	RELEASED BY	RECEIVED BY	PURPOSE
A TO F	2308	(b) (6)	NAME Locker # 2	Evidence
		ORGANIZATION NAVSTA Newport Police	ORGANIZATION Evidence Storage	
	04 Oct 10	(b) (6) (b) (7)(C)	SIGNATURE	
A TO F	05 Oct 10	NAME Locker # 2	NAME F Lima	Placed into Evidence Room
		ORGANIZATION EVIDENCE STORAGE	ORGANIZATION NAVSTA Newport Police	
	1130	SIGNATURE	SIGNATURE (b) (6) (b) (7)(C)	
		NAME	NAME	
		ORGANIZATION	ORGANIZATION	
		SIGNATURE	SIGNATURE	